

§713.3

15 CFR Ch. VII (1–1–07 Edition)

(e) *Declared Schedule 2 plant sites subject to initial and routine inspections.* A “declared” Schedule 2 plant site is subject to initial and routine inspection by the Organization for the Prohibition of Chemical Weapons if it produced, processed or consumed in any of the three previous calendar years, or is anticipated to produce, process or consume in the next calendar year, in excess of ten times the applicable declaration threshold set forth in paragraphs (a)(1)(i)(A)(I) through (3) of this section (see part 716 of the CWC). A “declared” Schedule 2 plant site that has received an initial inspection is subject to routine inspection.

§713.3 Annual declaration and reporting requirements for exports and imports of Schedule 2 chemicals.

(a) *Declarations and reports of exports and imports of Schedule 2 chemicals—(1) Declarations.* A Schedule 2 plant site that is declared because it produced, processed or consumed a Schedule 2 chemical at one or more plants above the applicable threshold set forth in paragraph (b) of this section, and also exported from or imported to the plant site that same Schedule 2 chemical above the applicable threshold, must submit export and import information as part of its declaration.

(2) *Reports.* The following persons must submit a report if they individually exported or imported a Schedule 2 chemical above the applicable threshold indicated in paragraph (b) of this section:

- (i) A declared plant site that exported or imported a Schedule 2 chemical that was different than the Schedule 2 chemical produced, processed or consumed at one or more plants at the plant site above the applicable declaration threshold;
- (ii) An undeclared plant site;
- (iii) A trading company; or
- (iv) Any other person subject to the CWC.

NOTE TO §713.3(a)(1) AND (a)(2)(I): A declared Schedule 2 plant site may need to declare exports or imports of Schedule 2 chemicals that it produced, processed or consumed above the applicable threshold and also report exports or imports of different Schedule 2 chemicals that it did not produce, process or consume above the applicable threshold quantities. The report may be submitted to

BIS either with or separately from the annual declaration on past activities (see §713.3(d) of the CWC).

NOTE TO §713.3(a)(2): The U.S. Government will not submit to the OPCW company-specific information relating to the export or import of Schedule 2 chemicals contained in reports. The U.S. Government will add all export and import information contained in reports to export and import information contained in declarations to establish the U.S. national aggregate declaration on exports and imports.

NOTE TO §713.3(a)(1) and (2): Declared and undeclared plant sites must count, for declaration or reporting purposes, all exports from and imports to the *entire* plant site, not only from or to individual plants on the plant site.

(b) *Quantities of exports or imports that trigger a declaration or reporting requirement.* (1) You have a declaration or reporting requirement and must complete the forms specified in paragraph (d) of this section if you exported or imported a Schedule 2 chemical in excess of the following threshold quantities:

(i) 1 kilogram of chemical BZ: 3-Quinuclidinyl benzilate (See Schedule 2, paragraph A.3 included in Supplement No. 1 to this part);

(ii) 100 kilograms of chemical PFIB: 1,1,3,3,3-Pentafluoro-2(trifluoromethyl)-1-propene or 100 kilograms of Amiton: O,O Diethyl S-[2(diethylamino)ethyl] phosphorothiolate and corresponding alkylated or protonated salts (see Schedule 2, paragraphs A.1 and A.2 included in Supplement No.1 to this part); or

(iii) 1 metric ton of any chemical listed in Schedule 2, Part B (see Supplement No.1 to this part).

(2) *Mixtures containing a Schedule 2 chemical.* The quantity of each Schedule 2 chemical contained in a mixture must be counted for the declaration or reporting of an export or import only if the concentration of each Schedule 2 chemical in the mixture is 30% or more by volume or by weight, whichever yields the lesser percent. You must declare separately each Schedule 2 chemical whose concentration in the mixture is 30% or more.

NOTE 1 TO §713.3(b)(2): See §713.2(a)(2)(ii) of the CWC for information on counting amounts of Schedule 2 chemicals contained

in mixtures and determining declaration and reporting requirements.

NOTE 2 TO § 713.3(b)(2): The “30% and above” mixtures rule applies only for declaration and reporting purposes. This rule does not apply for purposes of determining whether the export of your mixture to a non-State Party requires an End-Use Certificate or for determining whether you need an export license from BIS (see § 742.2, § 742.18 and § 745.2 of the Export Administration Regulations) or from the Department of State (see the International Traffic in Arms Regulations (22 CFR parts 120 through 130)).

(c) *Declaration and reporting requirements*—(1) *Annual declaration on past activities*. A plant site described in paragraph (a)(1) of this section that has an annual declaration requirement for the production, processing, or consumption of a Schedule 2 chemical for the previous calendar year also must declare the export and/or import of that same Schedule 2 chemical if the amount exceeded the applicable threshold set forth in paragraph (b) of this section. The plant site must declare such export or import information as part of its annual declaration of past activities.

(2) *Annual report on exports and imports*. Declared plant sites described in paragraph (a)(2)(i) of this section, and undeclared plant sites, trading companies or any other person (described in paragraphs (a)(2)(ii) through (iv) of this section) subject to the CWCR that exported or imported a Schedule 2 chemical in a previous calendar year in excess of the applicable thresholds set forth in paragraph (b) of this section must submit an annual report on such exports or imports.

(d) *Types of declaration and reporting forms to be used*—(1) *Annual declaration on past activities*. If you are a declared Schedule 2 plant site, as described in paragraph (a)(1) of this section, you must complete Form 2-3B, in addition to the forms required by § 713.2(b)(1) of the CWCR, for each declared Schedule 2 chemical exported or imported above the applicable threshold in the previous calendar year.

(2) *Annual report on exports and imports*. (i) If you are a declared plant site, as described in paragraph (a)(2)(i) of this section, you may fulfill your annual reporting requirements by:

(A) Submitting, *with* your annual declaration on past activities, a Form 2-3B for each Schedule 2 chemical you exported or imported above the applicable threshold. Attach Form A, as appropriate; Form B is optional; or

(B) Submitting, *separately from* your annual declaration on past activities, a Certification Form, Form 2-1, and Form 2-3B for each Schedule 2 chemical you exported or imported above the applicable threshold. Attach Form A, as appropriate; Form B is optional.

(ii) If you are an undeclared plant site, trading company or any other person subject to the CWCR, you must complete the Certification Form, Form 2-1, and Form 2-3B for each Schedule 2 chemical you exported or imported above the applicable threshold. Attach Form A, as appropriate; Form B is optional.

(e) *Quantities to be declared*—(1) *Calculations*. If you exported from or imported to your plant site, trading company, or other location more than the applicable threshold of a Schedule 2 chemical in the previous calendar year, you must declare or report all exports and imports of that chemical by country of destination or country of origin, respectively, and indicate the total amount exported to or imported from each country.

(2) *Rounding*. For purposes of declaring or reporting exports and imports of a Schedule 2 chemical, you must total all exports and imports per calendar year per recipient or source and then round as follows: For the chemical BZ, the total quantity for each country of destination or country of origin (source) should be reported to the nearest hundredth of a kilogram (10 grams); for PFIB and Amiton and corresponding alkylated or protonated salts, the quantity for each destination or source should be reported to the nearest 1 kilogram; and for all other Schedule 2 chemicals, the total quantity for each destination or source should be reported to the nearest 10 kilograms.